

AMENDED IN SENATE JUNE 10, 2009

AMENDED IN ASSEMBLY MARCH 31, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

**No. 999**

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**Introduced by Assembly Member Skinner**

*(Coauthors: Assembly Members Hall, Swanson, and Torlakson)*

*(Coauthor: Senator Yee)*

February 27, 2009

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An act to amend Section 1719 of the Welfare and Institutions Code, relating to juveniles.

### LEGISLATIVE COUNSEL'S DIGEST

AB 999, as amended, Skinner. Juveniles: Division of Juvenile Facilities.

Existing law sets forth the powers and duties of the Division of Juvenile Facilities in the Department of Corrections and Rehabilitation with respect to wards in its custody, including, but not limited to, the return of persons to the court of commitment for redispotion by the court, determination of offense category, and setting of parole consideration dates. Existing law requires the department to promulgate policies and regulations implementing a departmentwide system of graduated sanctions for addressing ward disciplinary matters, including extending a ward's parole consideration date, subject to appeal, from one to not more than 12 months, for a sustained serious misconduct violation, as specified. The department is also authorized to promulgate regulations to establish a process for granting wards who have successfully responded to disciplinary sanctions a reduction of up to 50% of any time acquired for disciplinary matters.

This bill would revise and recast these provisions by including *conducting biannual, rather than annual, reviews, good behavior time credits, and program time credits* among the powers and duties of the division. The bill would require the parole consideration date of a ward to be advanced *no less than one-month day* earlier for every ~~month day~~ of satisfactory performance, *as defined, in a one or more credit qualifying-program programs*, including performance in education, rehabilitation, ~~vocational education, training, drug treatment, anger management,~~ therapeutic, work, and other programs meant to prepare a ward for successful reentry into society. The bill would require the division to promulgate policies and regulations implementing a divisionwide system of graduated sanctions for addressing ward disciplinary matters. The bill would prohibit the division from extending or postponing a ward's parole consideration date, but would permit forfeiture of ~~program time~~ *not more than 6 months of combined program and good behavior credits* for sustained serious misconduct. The bill would require the division to provide a document signed by a division official to each ward defining what conduct constitutes serious misconduct. *The bill would also provide that program credits earned before January 1, 2010, would be honored. The bill would require the division to allow wards who received parole consideration date extensions after January 1, 2009, and before January 1, 2010, and who have successfully responded to disciplinary sanctions a reinstatement of up to 100 % of the time added.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 1719 of the Welfare and Institutions Code
- 2     is amended to read:
- 3     1719. (a) On and after July 1, 2005, the following powers and
- 4     duties shall be exercised and performed by the Board of Parole
- 5     Hearings: discharges of commitment, orders to parole and
- 6     conditions thereof, revocation or suspension of parole, and
- 7     disciplinary appeals.
- 8     (b) Any ward may appeal an adjustment to his or her parole
- 9     consideration date to a panel comprised of at least two
- 10    commissioners.

(c) The following powers and duties shall be exercised and performed by the Division of Juvenile Facilities: return of persons to the court of commitment for redispotion by the court, determination of offense category, setting of parole consideration dates, conducting ~~annual~~ *biannual* reviews, treatment program orders, program time credits, *good behavior time credits* institution placements, furlough placements, return of nonresident persons to the jurisdiction of the state of legal residence, disciplinary decisionmaking, and referrals pursuant to Section 1800.

(d) Program time credits shall apply for *satisfactory* performance in ~~education, rehabilitation, vocational education, training, drug treatment, anger management~~ *education, rehabilitation, therapeutic, work, and other programs meant to prepare a ward for successful reentry into society. For every ~~month~~ day of satisfactory performance in a one or more credit qualifying program programs, as designated by the Chief Deputy Secretary for Juvenile Justice, the parole consideration date of a ward shall be advanced ~~one month~~ no less than one day earlier.*

(e) *For the purposes of this section, "satisfactory performance" means progress in a credit-qualifying program, such as any one of the following: completion of assigned work, continuing or improved participation in programming or class work, continuing or improved cooperation with the instructor or person in charge, substantial compliance with instructions, or meeting requirements for participation in assigned activity.*

*(1) Failure to work or participate in program activities for reasons which are beyond the ward's control shall not be cause for denial or forfeiture of participation credit. These circumstances may include, but are not limited to, the following:*

*(A) The ward has not been given instructions, an order, or an assignment to perform or participate in educational, vocational, or program activities.*

*(B) The ward's work or program assignment has been temporarily suspended or permanently terminated, and the ward has not been admitted into another educational, vocational, or rehabilitative program.*

*(C) The ward is medically excluded or restricted from work or program activities, either on a temporary basis because of illness or injury, or on a permanent basis because of medically diagnosed physical or mental inability to participate.*

1 (D) The ward has failed to perform or participate after  
2 demonstrating a reasonable effort in the specified activity.

3 (E) The ward is restricted from reporting to or participating in  
4 an assigned work or program activity by an order or action of  
5 institution staff unrelated to a disciplinary infraction by the ward.

6 (F) The ward's behavior is the result of mental illness or its  
7 treatment.

8 (f) Good behavior time credits shall be provided independently  
9 of program credit for substantial compliance with rules of the  
10 institution, and substantial compliance with instructions from staff,  
11 the instructor, or the person in charge. For every day of substantial  
12 compliance with disciplinary rules and instructions, a ward shall  
13 have his or her parole consideration date advanced no less than  
14 one-half day.

15 (g) The division shall promulgate policies and regulations  
16 implementing a divisionwide system of graduated sanctions for  
17 addressing ward disciplinary matters. The disciplinary  
18 decisionmaking system shall be employed as the disciplinary  
19 system in facilities under the jurisdiction of the Division of Juvenile  
20 Facilities, and shall provide a framework for handling disciplinary  
21 matters in a manner that is consistent, timely, proportionate, and  
22 ensures the due process rights of wards. The division shall not  
23 extend or postpone a ward's parole consideration date. Sanctions  
24 for sustained serious misconduct ~~may include forfeiture of program~~  
25 ~~time credits established pursuant to this chapter, if all other~~  
26 ~~sanctioning options have been considered and determined to be~~  
27 ~~unsuitable in light of the ward's previous case history and the~~  
28 ~~circumstances of the misconduct. In any case in which a program~~  
29 ~~time credit has been forfeited, the disposition report shall clearly~~  
30 ~~state the reasons for the forfeiture. The length of any program time~~  
31 ~~credit forfeiture shall be based on the seriousness of the~~  
32 ~~misconduct, the ward's prior disciplinary history, the ward's~~  
33 ~~progress toward treatment objectives, the ward's earned program~~  
34 ~~time credits, and any extenuating or mitigating circumstances. A~~  
35 ~~document signed by a division official shall be provided to each~~  
36 ~~ward defining what conduct constitutes "serious misconduct." may~~  
37 ~~include forfeiture of not more than six months of combined program~~  
38 ~~and good behavior credits established pursuant to this chapter, if~~  
39 ~~all other sanctioning options have been considered and determined~~  
40 ~~to be unsuitable in light of the ward's previous case history and~~

1 *the circumstances of the misconduct. In any case in which a*  
2 *program time or good behavior credit has been forfeited, the*  
3 *disposition report shall clearly state the reasons for the forfeiture.*  
4 *The length of any credit forfeiture shall be based on the seriousness*  
5 *of the misconduct, the ward's prior disciplinary history, the ward's*  
6 *progress toward treatment objectives, the ward's earned program*  
7 *or good behavior credits, and any extenuating or mitigating*  
8 *circumstances. The department shall promulgate regulations to*  
9 *implement a table of sanctions to be used in determining program*  
10 *or good behavior time credit forfeitures. The department also shall*  
11 *promulgate regulations to establish a process for granting wards*  
12 *who have successfully responded to disciplinary sanctions a*  
13 *reinstatement of up to 100 percent of any credit forfeited for*  
14 *disciplinary matters. A document signed by a department official*  
15 *shall be provided to each ward describing what defines "serious*  
16 *misconduct."*

17 *(h) The division shall periodically review the ward's program*  
18 *credits and good behavior credits and forfeitures, if any. Reviews*  
19 *shall occur no less than every six months. At each review, a ward's*  
20 *parole consideration date shall be adjusted according to the net*  
21 *credit earned since the last review.*

22 *(i) Program credits earned before January 1, 2010, shall be*  
23 *honored. The division shall allow wards who received parole*  
24 *consideration date extensions after January 1, 2009, and before*  
25 *January 1, 2010, and who have successfully responded to*  
26 *disciplinary sanctions a reinstatement of up to 100 percent of the*  
27 *time added.*

28 *(j) Nothing in this section shall preclude the division from*  
29 *providing credits or other incentives for other desirable behaviors*  
30 *or program participation.*